

CITY OF NEWBERG
AGREEMENT WITH ELIRAN CONSULTING
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this second day of March, 2000 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and Roger Schrieber
6915 SE 71st
Portland, OR 97206

503-774-9975
(home)

hereinafter called **Consultant**.

RECITALS:

1. **City** has need for the services of a **Consultant** with particular training, ability, knowledge, expertise and experience possessed by **Consultant**.

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements of the parties, it is agreed as follows.

1. **Effective Date and Duration:** This Agreement shall become effective on the date that this Agreement has been signed by every party hereto.

Unless, terminated or extended, this Agreement shall expire when the **City** accepts **Consultant's** completed performance or on June 30th, 2000, whichever date occurs first. This fact notwithstanding, the services of **Consultant** shall be authorized and paid on a phase-by-phase basis as described in Exhibit "A."

Expiration shall not extinguish or prejudice **City's** right to enforce this Agreement with respect to any reach of a **Consultant** warranty or any fault or defect in **Consultant's** performance that has not been cured.

2. **Termination:** This Agreement may be terminated at any time by mutual, written consent of the parties. The **City** may, at its sole discretion terminate this Agreement in whole or part upon a 30-day written notice to **Consultant**. The **City** may terminate immediately upon notice to the **Consultant** that the **City** does not have funding, appropriations, or other necessary expenditure authority to pay for **Consultant's** work. The **City** may terminate Agreement at any time for material breach. This Agreement may be terminated by either party at the end of a project phase as defined in Exhibit "A" or at any time upon 30 days written notice.

3. **Scope of Work:** The **Consultant** agrees to provide the services provided in the Scope of Work which is Exhibit "A" and attached hereto and incorporated by this reference. The **Consultant** represents and warrants to the **City** that the **Consultant** can perform the work outlined in the Scope of Work for the fee proposal amount.

4. **Compensation:** The **Consultant** agrees to perform the work for a not-to-exceed fee as indicated in their professional fee proposal obtained in the Scope of Work. The not-to-exceed figure is as follows:
\$2,000.00

The **Consultant** shall not exceed the fee for any task included in the fee proposal amount. If the **Consultant** sees that the fee is going to exceed the not-to-exceed figure because the task has changed or is outside the scope, the **Consultant** shall notify the **City** in writing of the circumstances with an estimated amount that the fee is to be exceeded. The **Consultant** shall obtain written permission from the **City** before exceeding the maximum fee amount. If the **Consultant** does work that exceeds the maximum fee amount prior to obtaining the written permission, the **Consultant** waives any right to collect that fee amount.

5. **Additional Work Not Shown within the Scope of Work:** If **City** requests or requires work to be done not within the Scope of Work of this project, the **Consultant** shall notify the **City** of such work, provide an estimated

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fee amount, and obtain written instructions to proceed with work in the form of a Agreement amendment prior to proceeding with work and incurring any costs on behalf of the **City**. If **Consultant** proceeds with work prior to obtaining permission and/or Agreement amendment, the **Consultant** waives any right to collect fees for work performed.

6. **Agreement Documents:** This Agreement consists of the following documents which are listed in descending order of preference:

This Agreement with attached Exhibits, the proposal of the **Consultant** (if one was submitted), the Request for Proposal (if one was used) and Scope of Work.

Work is under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

7. **Benefits:** **Consultant** will not be eligible for any federal social security, state workers compensation, unemployment insurance, or public employees' retirement system benefits from the Agreement payment except as a self-employed individual.

8. **Federal Employment Status:** In the event any payment made pursuant to this Agreement is to be charged against federal funds, **Consultant** certifies that he or she is not currently employed by the federal government and the amount charged does not exceed his or her normal charge for the type of services provided.

9. **Consultant's Warranties:** The work to be performed by **Consultant** includes services generally performed by **Consultant** in his/her usual line of business. The work performed by the **Consultant** under this Agreement shall be performed in a good and businesses-like manner in accordance with the highest professional standards. The **Consultant** shall, at all times, during the term of this Agreement, be qualified, be professionally competent, and dully licensed to perform the work.

10. **Indemnity:** **Consultant** shall defend, indemnify and hold harmless **City** from and against all liability or loss and against all claims, suites, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever resulting from, arising out, or relating to the activities of the **Consultant**, or its officers, employees, subcontractors, or agents under this Agreement.

11. **Independent Contractor:** **Consultant** is not currently employed by the **City**. The parties to this Agreement intend that the **Consultant** perform all work as an Independent Contractor. No agent, employee, or servant of **Consultant** shall be or shall be deemed to be the employee, agent or servant of **City**. **City** is interested

only in the results obtained under this Agreement; the manner and means of conducting the work are under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

12. **Taxes:** **Consultant** will be responsible for any federal or state taxes applicable to payments received under this Agreement. **City** will report the total of all payments to **Consultant**, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue regulations.

13. **Insurance:**

a) **Consultant**, its subconsultants, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers; or by signing this Agreement, **Consultant** represents that he or she is a sole proprietor and is exempt from the laws requiring workers' compensation coverage.

b) **Consultant** will, at all times, carry a Comprehensive General Liability insurance policy for at least \$1,000,000.00 combined single limits per occurrence for Bodily Injury, Property Damage, and Personal Injury. If the policy is written on the new occurrence form then the aggregate limit shall be \$2,000,000.00. The **City**, its agents, employees and officials all while acting within their official capacity as such, shall be named as an additional insured on the insurance specified in this paragraph.

c) **Consultant** will, at all times, carry a Professional Liability/Errors and Omission type policy with limits of at least \$500,000.00. If this policy is a "claims made" type policy, the policy type and company shall be approved by the City Manager prior to commencement of any work under this Agreement.

d) **Consultant** shall furnish the **City** with Certificates of Insurance upon execution of Agreement. Such certificates of insurance evidencing any policies required by this Agreement shall be delivered to the **City** prior to the commencement of any work. A 30-day notice of cancellation clause shall be included in said certificate. The **City** has the right to reject any certificate for unacceptable coverage and/or companies.

14. **Assignment:** The parties hereto each bind themselves, their partners, successors, assigns and legal representatives of such other party in respect to all terms of this Agreement. Neither party shall assign the Agreement as a whole without written consent of the other.

15. **Ownership of Work Product:** All original documents prepared by **Consultant** in performance of this Agreement, including but not limited to original maps, plans, drawing and specifications are the property of **City** unless otherwise agreed in writing. Quality reproducible records copies shall be provided to **City** at **City's** expense, upon request. Any reuse, change or alteration to original documents prepared by **Consultant** is not permitted without written verification or adaption by **Consultant**. **City** shall indemnify and hold harmless **Consultant** and **Consultant** independent professional associates or **Consultants** from all claims, damages,

losses and expenses including attorney's fees arising out of any unauthorized use of any instruments of professional service.

16. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties and supersedes all prior agreements, written and oral, courses of dealing, or other understanding between the parties. No modification of this Agreement shall be binding unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

CONSULTANT

By: _____

Name: _____

Title: _____

Date: _____

Roger Schreiber
Roger Schreiber
Quality Control Manager
March 2, 2000

CITY OF NEWBERG

By: _____

Name: _____

Title: _____

Date: _____

Ronald R. Pilcher
RONALD R. PILCHER
MANAGER OF INFORMATION SERVICES
3/2/2000

Approved as to form:

Terrence D. Mahr

Terrence D. Mahr, City Attorney

INFORMATION SERVICES

SCOPE OF WORK AGREEMENT BETWEEN:

Roger Schrieber and The City of Newberg

In that Roger Schrieber is a qualified consultant and has on this the Second day of March, 2000 agreed to the following:

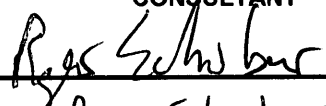
1. The wage for services is set at \$65.00 per hour. Not to exceed \$2000.00 in a fiscal year unless written authorization is obtained from Duane Cole – City Manager and Ronald Pilcher – Manager of Information Services.

SPECIFIC WORK

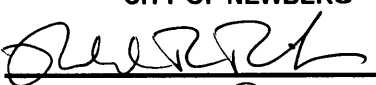
1. Assist in the planning of a network structure.
2. Assist in the design/implementation of a file structure for servers and workstations.
3. Assist in the design/implementation of a backup strategy for the City's network.
4. Assist in the design/implementation of an Exchange email server.
5. Assist in the design/implementation of a city wide network.
6. Other associated work that applies.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

CONSULTANT

BY: 
NAME: Roger Schrieber
TITLE: Quality Control Manager
DATE: March 2, 2000

CITY OF NEWBERG

BY: 
NAME: Ronald R. Pilcher
TITLE: MIS
DATE: 3/2/2000

APPROVED AS TO FORM:



TERRENCE D. MAHR, CITY ATTORNEY